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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,218	01/26/2004	Howard Lowe	A-8905.RNFCAP/bh	6564
7590	06/09/2006		EXAMINER	
Hoffman, Wasson & Gitler, P.C. Suite 522 2361 Jefferson Davis Highway Arlington, VA 22202-3876			LEE, KEVIN L	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/763,218	LOWE, HOWARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	KEVIN L. LEE	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 April 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) 7-26 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01 September 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>April 28, 2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Election/Restrictions*

Claims 7-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 12, 2006.

Applicant has stated in the reply filed on April 12, 2006 that his elected species A corresponds to Figures 1-4 and that claims 1-9 are readable on the elected species. Review of the drawings and claims, however, suggests that applicant's statement is not accurate. Claim 7 recites the valve assembly to include a first sensor, which causes the drive to move the sealing member to the unshielded position. Figures 1-4 do not disclose or suggest such a sensor as a part of the float operated valve assembly. Claims 7-9 are therefore readable on a nonelected species.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by David et al (U.S. Patent No. 6,536,465). The patent to David et al discloses a shut-off valve assembly comprising a body (10) attachable to a fluid line and having a chamber in which a baffle arrangement (48) is located. The body includes a valve member (40) that is movable to a shielded position by the baffle arrangement wherein the valve member is not movable by the fluid stream against the valve seat and an unshielded position wherein the valve member is movable by the fluid stream against the valve seat to seal the outlet, col. 5, lines 38-61. A float drive (64) actuates the valve member.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Ericson (U.S. Patent No. 812,030). The patent to Ericson discloses a shut-off valve assembly comprising a baffle arrangement (3), valve member (2<sup>a</sup>) including a sealing member (2) and a drive (11) for moving the sealing member between a shielded and unshielded position in the baffle arrangement; see page 1, lines 40-82.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Shannon (U.S. Patent No. 218,325) is cited for the additional showing of a valve assembly including a baffle (N) for a valve member (L), the baffle shielding the valve member against the incoming fluid flow in the open position.

Art Unit: 3753

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN L. LEE whose telephone number is (571) 272-4915. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC KEASEL can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JUNE 6, 2006

  
Kevin Lee  
Primary Examiner